

REMARKS

This Amendment is submitted in response to the Office Action mailed on July 2, 2003. The Office Action rejects Claims 1-3, 5-15, and 17-22 under 35 U.S.C. § 103 as well as under the judicially-created doctrine of obviousness-type double patenting. Applicants note that on July 10, 2003, Applicants' undersigned attorney and the Examiner consulted regarding the rejection. During the interview, the Examiner stated that, "Examiner also indicated that the rejection of record will be withdrawn, if claims are limited to whey proteins as the sole protein source within the claim compositions. Examiner suggested the addition of the limitation 'wherein said protein source is the sole protein source of the composition' to overcome the rejection of record." (See Interview Summary).

Each of independent Claims 1, 7, 14, and 19 has been so amended. Applicants note that the amendment does not add new matter. Therefore, Applicants respectfully submit that the rejection of the claims under 35 U.S.C. § 103 has been overcome and therefore respectfully request that it be withdrawn.

Applicants are also submitting herewith a Terminal Disclaimer disclaiming the terminal part of any patent issuing on U.S. Patent Application Serial No. 09/622,629. Thus, the obviousness-type double patenting rejection has been overcome. Therefore, Applicants respectfully submit that the above-identified patent application is in a condition for allowance and respectfully request that it be passed to allowance.

Applicants are also submitting herewith an Information Disclosure Statement bringing to the Patent Office's attention some additional references. Applicants respectfully request that this Information Disclosure Statement and the references cited therein be considered.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 

Robert M. Barrett
Reg. No. 30,142
P.O. Box 1135
Chicago, Illinois 60690-1135
Phone: (312) 807-4204

Dated: January 2, 2004